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ABSTRACT

This guide for New York City parents of preschool children (ages 3 to 4) with possible disabilities is intended to provide necessary information about legal rights as well as a description of the evaluation and placement processes. Specifically addressed are the following topics: the Committee on Preschool Special Education (CPSE); timing of eligibility for services; who can make a referral to the CPSE; what happens when the CPSE receives a referral; the evaluation site; the child's multidisciplinary assessment; the CPSE review meeting; recommendation for services; provision of services; itinerant services; the process if the CPSE decides the child is not eligible; the process if the CPSE and the Central Based Support Team (CBST) agree; the process if the CPSE and the CBST disagree; the process if the parent does not agree to the recommended services; the process if the parent does agree with the recommendations; a change of program or services; the parent's procedural due process rights; and roles of the CPSE and CBST. (DB)

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SECURING AN APPROPRIATE EDUCATION FOR YOUR PRESCHOOL CHILD WITH A HANDICAPPING CONDITION: A GUIDE FOR NEW YORK CITY PARENTS

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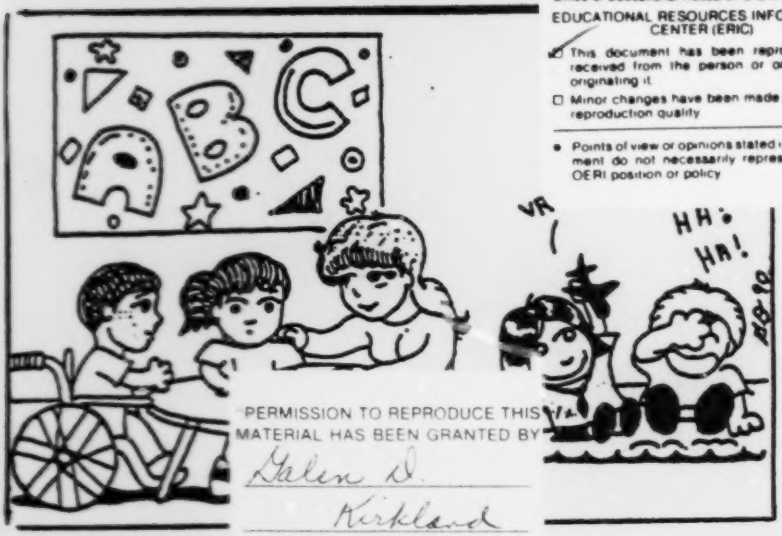

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TABLE OF CONTENTS

	Page
INTRODUCTION	1
COMMITTEE ON PRESCHOOL SPECIAL EDUCATION	2
TIMING OF ELIGIBILITY FOR SERVICES	2
WHO CAN MAKE A REFERRAL TO THE CPSE	3
WHAT HAPPENS WHEN A CPSE RECEIVES A REFERRAL	4
THE EVALUATION SITE	5
YOUR CHILD'S MULTIDISCIPLINARY ASSESSMENT (EVALUATION)	7
THE CPSE REVIEW MEETING	9
RECOMMENDATION FOR SERVICES	11
PROVISION OF SERVICES	12
ITINERANT SERVICES	12
IF THE CPSE DECIDES YOUR CHILD IS NOT ELIGIBLE	13
IF THE CPSE AND CENTRAL CBST AGREE	13
IF THE CPSE AND CENTRAL CBST DISAGREE	14
IF YOU DO NOT AGREE TO THE RECOMMENDED SERVICES	14
IF YOU AGREE WITH THE RECOMMENDATIONS	15
CHANGE OF PROGRAM OR SERVICES	17
YOUR PROCEDURAL DUE PROCESS RIGHTS	17
ROLES OF THE CPSE AND CENTRAL CBST	20

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Introduction

A New York State law passed in 1989 changes the process for referring and evaluating three and four year-old children for special education and related ("itinerant") services.[1] Under the new rules each community school district in New York City must have a Committee on Preschool Special Education (CPSE) to identify, evaluate and place three and four year old children with special education needs. The new state procedures are spelled out in Part 200 of the Regulations of the New York State Commissioner of Education. In addition, the New York City schools have adopted specific procedures for implementing the new state requirements. These changes are mandated by amendments to the Education of All Handicapped Children Act (EHA) (now the IDEA, Individuals with Disabilities Education Act).

We hope this brochure will help you understand how you can get the special educational services that your three or four year old child needs. If you have further questions, you can call the Intake Department at Advocates for Children

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[1] Under the old system, the Family Court was required to approve preschool special education services. The Family Court no longer has authority over three and four year-olds. At the present time, however, it remains responsible for "under threes." If your child is still under three years old, s/he is still subject to the old rules and educational placement must be approved by the Family Court.

(718) 729-8866 and we will try to assist you.

The Committee on Preschool Special Education (CPSE)

Every community school district must have a Committee on Preschool Special Education (CPSE). The CPSE must provide for the private evaluation of your three or four year old child, make an initial placement, and conduct a review every year. You and your child's preschool teacher must be invited to all review and evaluation meetings.

The members of the CPSE must include:

- a professional who works in the district. S/he is the Preschool Administrator of the CPSE;
- a parent of a preschool or elementary school child with a handicapping condition who lives in New York City;
- a professional who participated in the evaluation of your child.

In addition, if your child was in a preschool program before s/he turned three, his/her teacher from that program should be part of the CPSE for your child. A staff member from the educational program proposed for your child by the evaluation

site may also attend. You may bring an advocate with you.

Timing of Eligibility for Services

The time of the year that your child becomes eligible for preschool education services depends on his/her date of birth, as follows:

If your child becomes 3 years old between:	S/he is eligible for preschool services:
January 1st and June 30th	January 2nd
July 1st and December 31st	July 1st

Who can make a Referral to the CPSE

If you suspect that your preschool child has an educationally handicapping condition, you must submit a written referral to the chairperson of the CPSE in your community school district. You can make an oral referral of your child to a professional staff member in the district and s/he will assist you in making a written referral to the CPSE. If your child's suspected handicapping condition is Hard of Hearing, Deaf, or Visually Impaired, your community school district CPSE will refer the case to the Hearing Handicapped Visually Impaired (HHVI) CPSE.

In addition to yourself [2] -- the child's parent or legal guardian -- the following people can refer your child to the CPSE:

- a licensed physician;
- a representative of a government agency involved in the care of your child (for example, the Child Welfare Agency);
- a judge or other judicial officer;
- a school staff member, school district employee, or someone from an Early Childhood Direction Center or another program serving preschool children.

What Happens When a CPSE Receives A Referral

As soon as the CPSE receives a written referral concerning your child, it must immediately send you, in your dominant or "preferred" language:

1. Notice that a preschool referral has been received, along with a "Notice of Parental Due Process Rights" and a listing of free and low cost legal services available to you if you want to seek assistance.

2. The official list of evaluation sites and

[2] If you are not the parent or legal guardian of a child in your care, you may request that your case worker or the child's teacher make the referral.

program providers that have been approved by the New York State Education Department to serve preschool children.

3. A "Consent for Initial Evaluation" letter for you to sign and give to the preschool evaluation site before the evaluation can begin.[3]

If you do not consent, your child will not be evaluated.

The Evaluation Site

If you agree to have your child evaluated, you will be asked to choose an evaluation site from the official list of approved evaluators. Currently, only preschool special education program providers are approved evaluation sites, although they may contract with private and public hospitals and clinics to do evaluations. Someone from the CPSE should be available to assist you in selecting an appropriate site and in arranging for an evaluation meeting. If you have applied to the Commissioner of Education

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[3] If you are not the parent of a child in your care, and the parent or legal guardian is unknown, cannot be found, or has had parental rights legally terminated, the CPSE should name a "surrogate parent" to make educational decisions for the child. The "surrogate parent" should, to the maximum extent possible, share the same cultural and linguistic background as the child. If you are the child's foster parent, and you are interested in participating in your foster child's education, ask the CPSE to name you as the surrogate parent.

for approval for your child to attend a school for the blind, deaf, or severely physically handicapped (a "4201 school"), the appropriate "4201 school" closest to your home will do the evaluation.

After you select the evaluation site, the CPSE will send materials to the site. Then personnel at the evaluation site will send you a letter notifying you of the evaluation meeting date. The meeting must be scheduled as soon as possible but no later than five school days from the date that they send you the notification letter.

(Note: The evaluation site you selected may turn you away if it is overloaded or if it is not qualified to evaluate your child's suspected handicapping condition. The CPSE will then help you select another site).

If you feel you need someone at the conference or for interviews who can speak with you or your child in a language other than English, let the evaluation site know this immediately. If you need "other than English" services, the site will arrange for them to be provided. If the evaluation site is unable to provide appropriate bilingual personnel or translators, you should call your District CPSE.

Once you give written consent to the evaluation, the evaluation site must forward a copy of the signed consent form and any other available information to the CPSE.

If you do not consent to the evaluation, your child will not be evaluated.

If you cannot make the appointment the evaluation site has scheduled, call the site and have it changed. Remember, you must respond to the material you receive from the evaluation site if you want the referral to go forward. The preschool evaluation site may withdraw a referral and close the case if they can document that they tried but were unable to establish an evaluation appointment with you.

Your Child's Multidisciplinary Assessment (Evaluation)

Personnel at the evaluation site must complete a multidisciplinary assessment and issue a report within twenty (20) school days of receiving your consent. They must consider your child's primary language and, if necessary, the evaluation will be conducted in that language. This evaluation is conducted at no cost to you.

The evaluation must include:

- a general physical examination
- a social history
- an individual psychological evaluation and observation of your child in her/his current educational setting, if there is one.

It may also include, if necessary:

- a speech/language evaluation
- a thorough medical examination
- a psychiatric, neurological, audiological, opthalomogical, occupational, or physical therapy evaluation

In addition, you may submit any private reports that you wish to have considered during the process.

After the evaluation, the evaluation site will prepare an evaluation summary and an individualized Service Plan (ISP). The evaluation must describe your child's present level of performance and specific learning characteristics, and indicate your child's handicapping condition, if any. The Individualized Service Plan must include a detailed statement of your child's intellectual, social, emotional, and physical development and behavior management educational needs, as well as a

recommendation for the services that are needed, how often the services should be provided, and how long each session should be. It must also describe how your child can be provided with appropriate services in the least restrictive environment.

The evaluation site must send these two reports to your CPSE chairperson. The recommendation must be sent to all members of the CPSE. The site will automatically send you the evaluation summary, but if you want a copy of the full evaluation you have to request one from the CPSE.

If you disagree with the evaluation, you may be eligible for a second evaluation at public expense. You should speak to an attorney or an advocate to find out about the relevant provisions of federal law (the Individuals with Disabilities Education Act.)

The CPSE Review Meeting

Scheduling the Meeting

After receiving the reports from the evaluation site, the CPSE must schedule a Preschool Special Education Review meeting. The CPSE will mail you a notice of the meeting at least seven days in advance, with a copy of the evaluation summary attached. At the same time it will notify all the CPSE members of the meeting.

If you are not available on the scheduled date, call to reschedule. If you do not respond within seven days, the CPSE review meeting will be held without you.

Who will be at the CPSE Meeting

Not all the members must be at the CPSE meeting. However, certain persons are mandated by law to be there. They are:

- the CPSE Preschool Administrator
- a parent of a preschool or elementary school child with a handicapping condition who lives in New York City
- a professional who participated in your child's evaluation
- you - the parent of the child being reviewed - unless you do not wish to attend.

Other people who might be at the CPSE meeting are:

- a translator, if your preferred language is not English
- a staff member from the program recommended by the evaluation site for your child
- anyone else you wish to bring.

What happens at the meeting

Everyone at the CPSE meeting should discuss the results of the assessments in jargon-free language, identify your child's disabilities, and determine if your child needs, and is eligible for, preschool services. The CPSE should discuss and review all relevant information, including the evaluations, any information you wish to add, and information from prior programs your child may have attended.

After discussion, an Individualized Education Plan (IEP) will be developed for your child, containing annual goals, short-term objectives to meet those goals, and measurable criteria to determine whether your child is mastering these objectives. In so doing, the CPSE may consider the Individualized Service Plan (ISP) recommended by the evaluation site, but it is not bound by it. If the CPSE members disagree among themselves or with your preference, the Committee must develop an objective statement describing the reasons for its recommendation. Your statements, if any, should be included in this rationale, which will be attached to the completed IEP.

Recommendation for Services

If the CPSE decides that your child needs assistance because of a handicapping condition, it will determine the appropriate classification ("label")

from the New York State list of handicapping conditions (i.e., learning disabled, emotionally disturbed, vision-impaired, etc.). It will also recommend an educational placement at a specific licensed or certified program site and/or "itinerant" services, like speech or language therapy. It may recommend that the program and/or services be provided all year round. (Remember: July and August (twelve-month) services will be approved only if your child needs a year-round, structured learning environment to maintain developmental levels and prevent regression.)

Itinerant Services

If one itinerant service is recommended, the provider will be selected from a list of certified or licensed providers put together by the Central Board of Education. However, if the CPSE recommends two or more itinerant services, these services must be provided by an approved preschool special educational program. Your child must be attending a government-licensed preschool education program or government-licensed daycare center (such as Head Start, Project Giant Step, Montessori, or a preschool special education program) to receive any itinerant services.

Provision of Services

After the CPSE decides that your child is eligible for preschool special education services, it will get a Preschool Acceptance Letter from the program it

has recommended. In some cases this may be the preschool program that did the evaluation. The CPSE will indicate in the IEP whether your child will receive ten or twelve-month school programming. The CPSE will also send you a Notice of Recommendation and Phase I-IEP, and ask for your consent for the educational program it recommends. Once you have consented, the CPSE will send materials to the Central Board of Education's Central Based Support Team (CBST)[4] for review and approval.

No preschool or service provider may accept your child until approval is obtained from the Central CBST.

Remember: If you disagree with the CPSE or CBST recommendations, you can always request an impartial hearing.

If the CPSE Decides Your Child Is Not Eligible

If the CPSE decides that your child is not eligible for services, or doesn't recommend the program or services you want, it will send or give you the Notice of Recommendation. You should already have

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[4] The CBST is the administrative division designated by the New York City Board of Education to oversee preschool special education services.

received the Evaluation Summary and Notice of Parental Due Process Rights. It must also send a complete packet to the Central Board's CBST for review.

If the District CPSE and Central Board CBST Agree:

That Your Child Is Eligible

The CBST must make a determination within thirty school days from the date of the district CPSE recommendation. If it agrees with the CPSE's recommended special education program and services, it will issue an Authorization to Attend Letter. If your child needs transportation, the recommended preschool program provider (not your district CPSE) must arrange for it.

That Your Child Is Not Eligible

If both the district CPSE and the Central CBST agree that your child is not eligible for special education, the CBST will issue its Determination of Approval of the CPSE Recommendation denying special education services for your child. It will also inform you of your due process right to challenge the denial of special education at an impartial hearing.

If the District CPSE and Central Board CBST Disagree

If the Central CBST disagrees with the district CPSE recommendation, the CBST will consult with representatives from the evaluation site, the program, and the district CPSE Chairperson, and issue its final decision.

The CBST may: override the district's finding that your child is not eligible, decide that your child is eligible for preschool special education services, and refer the case back to the CPSE to recommend a program and services. Or it may overrule the district committee's recommendation for services, decide that your child is not eligible for special education, and issue a Denial of CPSE Recommendation letter.

If You Do Not Agree to the Recommended Services

If you disagree with the recommendation, you may request an impartial hearing (see Your Procedural Due Process Rights, below). If you do not respond to the recommendation and do not request an impartial hearing or another district CPSE review meeting, the CPSE can close your case if they can document that they made significant attempts to reach you.

In no case may services be provided to your child without your consent.

If You Agree With The Recommendations

If you agree with the recommendation, then your child must receive the services, including "appropriate transportation," beginning with the January or July "school start date."

If the Program and/or Services are Not Available

If the services are "not available", the New York City Board of Education must develop an appropriate program. **If you are aware of a program that may offer services appropriate for your child, call the CBST and an advocate.**

If your child is recommended for a bilingual preschool program which is not available, s/he may be placed in a monolingual program which is otherwise appropriate with a bilingual paraprofessional who speaks his/her language. This is called an "alternate placement". Your child should be transferred to an appropriate bilingual program as soon as one becomes available. If the preschool program refuses to provide a bilingual paraprofessional for your child, call the District CPSE and let them know.

Change of Program or Services

If you or your child's teacher or services provider believe that a change of program and/or services is needed, write to the CPSE and request a review of

the IEP. If necessary, the CPSE Chairperson will ensure that additional evaluations are done and will schedule a Requested Review conference.

No change in your child's educational placement or services may occur without prior notification to you. If you object, you should request an impartial hearing. During this period, no change in placement or services may occur. If you do not respond, the change in placement or services may occur.

Your Procedural Due Process Rights

Whenever you disagree with the evaluation or recommendation of the CPSE or CBST, you may request an impartial hearing. The impartial hearing is an opportunity to have a neutral decision-maker determine your child's educational needs. It is not as formal as a courtroom proceeding, but it is similar in many respects. The Board of Education will produce evidence to support its position and you will present evidence to support yours. Instead of the informal and open discussion style of CPSE meetings, there are special rules for conducting an impartial hearing.

You should seek the help of an advocate or an attorney if you are considering going to an impartial hearing. Contact Advocates for Children to order our manual, "Securing an Appropriate Education for Children with Handicapping Conditions in New York City." ($10 for parents; $25 for organizations.) Once you have had the hearing, the impartial hearing officer must give you a decision within 30 calendar days.

<u>During the Appeal Process</u>

If your child has previously received services in this new system, s/he will remain in the current educational placement (pendency placement) during the appeal process. If your child has not been previously served, s/he may receive the services recommended by the Board of Education while you await the outcome of the impartial hearing. <u>This will occur only if you agree to this temporary provision of services</u>. If you do not agree, your child will not receive services during this period.

If you disagree with the decision of the Impartial Hearing Officer, you may appeal to the New York State Review Officer, (3055 Cultural Education Center, Albany, NY 12230 (518) 486-1860). You should seek the help of an advocate or an attorney if you decide to appeal to the Commissioner.

ROLES OF THE DISTRICT COMMITTEES ON PRESCHOOL SPECIAL EDUCATION AND THE CENTRAL BOARD'S CENTRAL-BASED SUPPORT TEAM

<u>CPSE</u>

Receives referral
Provides for evaluation
Holds CPSE Review Meeting
Develops IEP and
Recommends Program & Services
Gets Preschool Acceptance Letter
Sends recommendation and all
other materials to ---------->

<u>CBST</u>

Receives CPSE
Recommendation
Within 30 days, either:
APPROVES
recommendation
or
DISAPPROVES
recommendation,
consults with all parties;
then either:

Issues final decision
or
Returns to CPSE
for re-review